

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

ROBERT GARDNER,

Plaintiff,

v.

FEDERAL EXPRESS CORPORATION,

Defendants.

Case No. 3:14-cv-01082 TEH

**VERDICT FORMS**

**First Claim (Disability Discrimination)**

We, the jury, answer the following questions:

1. Did Robert Gardner have a physical condition that limited a major life activity?

☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2. If you answered no, then sign and date this verdict.

2. Did FedEx know that Mr. Gardner had a physical condition that limited a major life activity?

☒ Yes ☐ No

If your answer to question 2 is yes, then answer question 3. If you answered no, then sign and date this verdict.

3. Was Mr. Gardner able to perform the essential job duties of the Ramp Transport Driver position with or without accommodation?

☒ Yes ☐ No

If your answer to question 3 is yes, then answer question 4. If you answered no, then sign and date this verdict.

4. Did FedEx subject Mr. Gardner to an adverse employment action?

☐ Yes ☒ No

If your answer to question 4 is yes, then answer question 5. If you answered no, then sign and date this verdict.

5. Was Robert Gardner's physical condition a substantial motivating reason for FedEx's decision to subject Mr. Gardner to an adverse employment action?

\_\_\_\_\_ Yes \_\_\_\_\_ No

If your answer to question 5 is yes, then answer question 6. If you answered no, then sign and date this verdict.

6. Was FedEx's conduct a substantial factor in causing harm to Mr. Gardner?

\_\_\_\_\_ Yes \_\_\_\_\_ No

Sign and date this verdict.

DATED: 10/22/15

PRESIDING JUROR NO. 4

  
PRESIDING JUROR SIGNATURE

**Second Claim (Failure to Engage in Interactive Process)**

1. Did Robert Gardner have a physical condition that was known to FedEx?

✓ Yes \_\_\_\_\_ No

If your answer to question 1 is yes, then answer question 2. If your answer to question 1 is no, then sign and date this verdict.

2. Did Mr. Gardner request that FedEx make reasonable accommodation for his physical condition so that he would be able to perform the essential duties of the job?

✓ Yes \_\_\_\_\_ No

If your answer to question 2 is yes, then answer question 3. If your answer to question 2 is no, then sign and date this verdict.

3. Was Mr. Gardner willing to participate in an interactive process to determine whether reasonable accommodation could be made so that he would be able to perform the essential job duties of the Ramp Transport Driver position?

✓ Yes \_\_\_\_\_ No

If your answer to question 3 is yes, then answer question 4. If your answer to question 3 is no, then sign and date this verdict.

4. Did FedEx fail to participate in a timely, good-faith interactive process with Mr. Gardner to determine whether reasonable accommodation could be made?

\_\_\_\_\_ Yes ✓ No

If your answer to question 4 is yes, then answer question 5. If your answer to question 4 is no, then sign and date this verdict.

5. Was FedEx's failure to participate in the interactive process a substantial factor in causing harm to Mr. Gardner?

\_\_\_\_\_ Yes \_\_\_\_\_ No

Sign and date this verdict.

DATED: 10/22/15

PRESIDING JUROR NO. 1

Pete Emery  
PRESIDING JUROR SIGNATURE

**Third Claim (Failure to Provide Reasonable Accommodation)**

1. Did Robert Gardner have a physical condition that limited a major life activity?

☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2. If you answered no, then sign and date this verdict.

2. Did FedEx know that Mr. Gardner had a physical condition that limited a major life activity?

☒ Yes ☐ No

If your answer to question 2 is yes, then answer question 3. If you answered no, then sign and date this verdict.

3. Was Mr. Gardner able to perform the essential job duties of the Ramp Transport Driver position with or without accommodation?

☒ Yes ☐ No

If your answer to question 3 is yes, then answer question 4. If you answered no, then sign and date this verdict.

4. Did FedEx fail to provide reasonable accommodation for Mr. Gardner's disability?

☐ Yes ☒ No

If your answer to question 4 is yes, then answer question 5. If you answered no, then sign and date this verdict.

5. Was FedEx's failure to provide reasonable accommodation a substantial factor in causing harm to Robert Gardner?

\_\_\_\_\_ Yes \_\_\_\_\_ No

Sign and date this verdict.

DATED: 10/28/15

PRESIDING JUROR NO. 4

  
PRESIDING JUROR SIGNATURE



**Fourth Claim (Retaliation)**

1. Did Robert Gardner take medical leave?

☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2. If you answered no, then sign and date this verdict.

2. Did FedEx subject Robert Gardner to an adverse employment action?

☐ Yes ☒ No

If your answer to question 2 is yes, then answer question 3. If you answered no, then sign and date this verdict.

3. Was Robert Gardner's medical leave a substantial motivating reason for FedEx's decision to subject Robert Gardner to an adverse employment action?

☐ Yes ☐ No

If your answer to question 3 is yes, then answer question 4. If you answered no, then sign and date this verdict.

4. Was FedEx's conduct a substantial factor in causing harm to Robert Gardner?

☐ Yes ☐ No

Sign and date this verdict.

DATED: 10/22/15

PRESIDING JUROR NO. 4

[Signature]  
PRESIDING JUROR SIGNATURE



**Fifth Claim (Failure to Prevent Discrimination or Retaliation)**

*Answer the following questions only if you answered yes to either question 6 of the First Claim or question 4 of the Fourth Claim. If you did not answer yes to either question, leave blank.*

1. Did FedEx fail to take reasonable steps to prevent discrimination or retaliation?

\_\_\_\_\_ Yes \_\_\_\_\_ No

If your answer to question 1 is yes, then answer question 2. If you answered no, then sign and date this verdict.

2. Was FedEx's failure to prevent discrimination or retaliation a substantial factor in causing harm to Robert Gardner?

\_\_\_\_\_ Yes \_\_\_\_\_ No.

Sign and date this verdict.

DATED: 10/22/15

PRESIDING JUROR NO. 4

  
PRESIDING JUROR SIGNATURE

**Sixth Claim (Wrongful Discharge in Violation of Public Policy)**

1. Was Robert Gardner employed by FedEx?

✓ Yes \_\_\_\_\_ No

If your answer to question 1 is yes, then answer question 2. If you answered no, then sign and date this verdict.

2. Did FedEx discharge Mr. Gardner?

✓ Yes \_\_\_\_\_ No

If your answer to question 2 is yes, then answer question 3. If you answered no, then sign and date this verdict.

3. Was Mr. Gardner's disability or medical leave a substantial motivating reason for Mr. Gardner's discharge?

\_\_\_\_\_ Yes ✓ No

If your answer to question 3 is yes, then answer question 4. If you answered no, then sign and date this verdict.

4. Was the discharge a substantial factor in causing harm to Mr. Gardner?

\_\_\_\_\_ Yes \_\_\_\_\_ No

Sign and date this verdict.

DATED: 10/22/15

PRESIDING JUROR NO. 4

[Signature]  
PRESIDING JUROR SIGNATURE

### Damages

*Answer the following questions only if you have answered yes to question 6 of the First Claim, question 5 of the Second Claim, question 5 of the Third Claim, question 4 of the Fourth Claim, question 2 of the Fifth Claim, or question 4 of the Sixth Claim.*

We, the jury, answer the following questions:

1. What are Robert Gardner's damages?

a. Past lost earnings: \_\_\_\_\_

b. Future lost earnings: \_\_\_\_\_

c. Past non-economic loss: \_\_\_\_\_

d. Future non-economic loss: \_\_\_\_\_

2. Did Robert Gardner prove by clear and convincing evidence that an officer, director or managing agent of FedEx committed, authorized or ratified an act of malice, oppression or fraud?

\_\_\_\_\_ Yes \_\_\_\_\_ No

If you answered yes, answer next question. If you answered no, sign and date this form.

3. How much do you award in punitive damages?: \_\_\_\_\_

Sign and date this verdict.

DATED: 10/27/15

PRESIDING JUROR NO. 4

  
PRESIDING JUROR SIGNATURE